

DISCIPLINE DIGEST

The Society of Notaries Public of British Columbia

March 2010

GURBINDER MINHAS

Commissioned: June 15 1989

The Member was charged with a breach of Rule 10.01 of the Rules of the Society and Section 28 of the *Notaries Act* by failing to fulfill an undertaking and by failing to respond to a request by his client to provide his file to the Vancouver Police Department.

Facts:

1. In March of 2004 in the course of a real estate transaction, the Member entered into an undertaking which required him to use reasonable efforts to obtain a registerable discharge of a mortgage. The Member failed to make reasonable efforts to obtain the discharge within a reasonable time.
2. In December 2007, a client of the member request that he provide the client's file to the Vancouver Police Department. The Member failed to do so.

The Inquiry Panel of the Society conducted a hearing regarding the charges and issued a report.

The Panel found that:

- a. The Member breached Rule 10 of the Rules of the Society by failing to fulfill his undertaking to use reasonable efforts to obtain a registerable discharge of mortgage;
- b. The Member's actions regarding the production of the client's file were found to be outside the standard of acceptable practice; and
- c. the Member displayed a lack of attention to outstanding file issues, over reliance upon and lack of supervision of staff and inadequate file management systems.

The panel, upon hearing all of the evidence, found the member had breached the Rules and the *Act* as charged.

Penalty:

The Board of Directors met to review the report of the Inquiry Panel and a joint recommendation on penalty agreed upon by the Society and the Member.

The Board accepted the report of the inquiry panel and agreed that the Member had breached the Society's Rules and the *Act* as originally charged.

The Board reviewed the discipline history of the Member. The Member was disciplined in 2005 for substandard practice in his handling of a mortgage transaction, was fined \$1,500 and required to have a practice inspection. In 2006, the Member was disciplined for his conduct in failing to

respond to lenders' requests regarding file information and was fined \$3,000 and required to have another practice inspection.

The Member agreed with the Society that his discipline history demonstrates a practice standard with respect to real estate conveyancing that is contrary to the best interests of the public and the notarial profession and tends to harm the standing of the notarial profession. In order to resolve the matter with the Society, the Member agreed to pay a fine of \$2,000 and to undertake that he will not provide services to the public or to another notary with respect to land transactions, including conducting real estate conveyance transactions of any kind, preparing or reviewing contracts, preparing or reviewing purchase, sale or mortgage documents, receiving deposits or other purchase, sale or mortgage proceeds, signing up clients for purchases, sales or mortgages including so called family transfers or other gratuitous land transactions and that he will limit his practice to notarization of documents and preparing Wills. If the Member breaches this undertaking he has agreed to immediately resign his membership with the Society of Notaries Public of British Columbia and understands that he will be immediately suspended until his resignation is received.

The Board found that in view of the fact that the Member's issues appear to arise as a result of his dealing with real property transactions, it is satisfied that the proposed penalty and undertaking serves to address the public's need to be well served and the Society's need to regulate its members' activities. The Board accepted the agreed penalty.

- a. fine of \$2,000;
- b. undertaking to restrict practice to notarizations and wills only.